

1 THE HONORABLE ROBERT S. LASNIK

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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON

SOPHEARY SANH,	:	NO. 2:20-cv-310-RSL
Plaintiff,	:	DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY
v.	:	NOTED ON MOTION CALENDAR: October 1, 2021
RISE CREDIT SERVICE OF TEXAS, LLC, d/b/a RISE, AND ELEVATE CREDIT, INC.	:	ORAL ARGUMENT REQUESTED
Defendants.	:	

Pursuant to Local Civil Rule 7(n), Defendants, RISE Credit Service of Texas, LLC and Elevate Credit, Inc., hereby provide the following notice of supplemental authority relevant to their pending Motion to Dismiss Plaintiffs' Amended Complaint (Dkt. #62), noted on the motion calendar for October 1, 2021. On February 8, 2022, Judge Jeffrey S. White of the United States District Court for the Northern District of California issued decisions on pending cross-motions for summary judgment in the cases captioned *People of the State of California, et al. v. FDIC.*, No. 20-cv-5860-JSW, and *People of the State of California, et al. v. OCC.*, No. 20-cv-5200-JSW. The Northern District of California's Orders, copies of which are attached hereto as Exhibits A and B, are relevant to, and directly support, arguments advanced by Defendants in support of their Motion to Dismiss, including the proper interpretation of the FDIC's Interest Rate Authority Rule and the "valid when made" doctrine. See Defs.' Mot. to Dismiss, Dkt. #62 at 15-16, Defs.' Reply

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1 in Support of Mot. to Dismiss, Dkt. #67 at 7-8; *see also* Pl.’s Opp., Dkt. #65 at 19-20. In denying
2 summary judgment to the various states suing to overturn the FDIC’s Interest Rate Authority Rule
3 while granting the FDIC’s motion for summary judgment, the Northern District of California court
4 recognized that states possessing “concerns about rent-a-bank schemes” were able to assuage such
5 concerns by opting out of Section 27 of DIDMCA. *Compare* Ex. A at 10, *with* Defs.’ Reply in
6 Support of Mot. to Dismiss, Dkt. #67 at 7 (arguing same and noting Washington has failed to opt-
7 out).

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9 DATED: February 9, 2022.

ARMSTRONG TEASDALE LLP

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CERTIFICATE OF SERVICE

2 I, Rachael Cullen hereby certify that on the 9th day of February 2022, I electronically
3 filed the foregoing *Defendants' Notice of Supplemental Authority* with the Clerk of the Court
4 using the CM/ECF system which will send notification of such filing to all counsel of record.

DATED: February 9, 2022.

/s/Rachael Y. Cullen
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